



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-क

वर्ष ६, अंक १४]

मंगळवार, एप्रिल २९, २०१४/वैशाख ९, शके १९३६

[पृष्ठे ७, किंमत : रुपये ९.००

असाधारण क्रमांक ३७

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले

(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)

वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क),

जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील

इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

THE HIGH COURT OF JUDICATURE AT BOMBAY APPELLATE SIDE

NOTIFICATION

(For insertion in the Goa Government Gazette)

No. P.1602/2014.— The Honourable the Chief Justice and the Judges of the Bombay High Court are pleased to direct that the following draft of the rules of the Bombay High Court proposed to be framed in exercise of the powers conferred by section 2 of the Goa High Court (Hearing of Writ Petitions by Division Bench and Abolition of Letter Patent Appeals) Act, 2013 as amended by (Goa Act No. 26 of 2013) and all other powers enabling it in that behalf, is published as required by section 23 of the General Clauses Act, 1897, for information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration by the Bombay High Court on or after 5th May 2014.

It is clarified that Part A and Part B of these draft Rules are to be inserted in place of existing Chapter I and Chapter XVII, Rules 1,4,17 and 18 of the Bombay High Court Appellate Side Rules, 1960 respectively.

Any objection or suggestion which may be received by the Chief Justice of the Bombay High Court with respect to the draft on or before the aforementioned date will be taken into consideration by the Bombay High Court.

PART A
Conduct of Business
CHAPTER I

JURISDICTION OF SINGLE JUDGES AND BENCHES OF THE HIGH COURT

1. *Jurisdiction ordinarily exercised by Division Court of two Judges.*— (i) The Civil and Criminal jurisdiction of the Court on the Appellate Side shall, except in cases where it is otherwise provided for by these rules, be exercised by Division Court consisting of two or more Judges.

(ii) Notwithstanding anything contained in this Chapter, the Chief Justice may assign any matter or categories of matters, which can be disposed of by a Single Judge, to a Division Bench.

2. *Matters disposed of by a Single Judge.*— Save as otherwise expressly provided by these rules, a Single Judge may dispose of the following matters :—

I. Civil —

(a) Appeals :—

(i) From original decree in suits or from adjudication in other proceedings from which appeals lie to the High Court as from original decrees, whether under the Civil Procedure Code or under any local or special Act, wherein the value of the subject-matter in dispute in the Court or before the Tribunal of the first instance does not exceed 50 lakh rupees and wherein the value of the subject-matter still in dispute on appeal is 50 lakh rupees or less : provided, however, that the expression ‘ the value of the subject-matter still in dispute on appeal’ appearing in this sub-clause shall be construed to mean, where there is an appeal as well as a cross appeal or cross-appeals or cross-objections, the total of the values of the subject-matters in dispute in the appeal as well as the cross-appeal or the cross appeals or the cross- objections ;

(ii) From appellate decrees in suits or from adjudications in other proceedings from which appeals lie to the High Court as from appellate decrees, whether under the Civil Procedure Code or under any local or special Act ;

(iii) From decrees under section 144 of the Code of Civil Procedure ;

(iv) From orders under section 104 or Order XLIII, Rule 1 of the Code of Civil Procedure ; and

(v) From orders under local or special Acts not having the force of a decree.

(b) Applications for the exercise of the Court’s revisional jurisdiction under section 115 of the Civil Procedure Code or under section 25 of the Provincial Small Cause Courts Act, or under any special or Local Law excluding the petitions under section 51 of the Parsi Marriage and Divorce Act, 1936, arising out of decrees or orders passed by the Parsi Chief Matrimonial Court.

(c) Applications for the withdrawal of appearance or cancellation of the *vakalatnama* or for deposit or withdrawal of moneys and for refund of Court Fees.

(d) Applications under the Companies Act, 1956, and proceedings thereunder.

(e) All other applications incidental to or interlocutory or arising out of or relating to the appeals or civil revisional applications pending or proposed to be filed in the High Court and also applications for withdrawal of appeals or applications for consent decrees or orders under Order XXIII, Civil Procedure Code.

(f) Revision of orders passed by the Registrar, Deputy Registrar, Assistant Registrar or the Special Officer in those appeals or petitions which are to be dealt with by a Single Judge under these rules.

II. Criminal—

(a) Appeals against convictions, except in which the sentence of death or imprisonment for life has been passed appeals against acquittals wherein the offense with which the accused was charged is one punishable on conviction with a sentence of fine only or with a sentence of imprisonment not exceeding ten years or with such imprisonment and fine, and appeals under section 377 of the Code of Criminal Procedure, revision applications and Court notices for enhancement of sentence for offenses punishable on conviction with sentence of fine only or with sentence of imprisonment not exceeding ten years or with such imprisonment and fine.

(b) Appeals against orders relating to disposal of property and orders directing payment of compensation, expenses and/or fees or orders binding over the accused to appear and receive sentence at any time the accused may be called upon and in the meanwhile to be of good behavior or admonishing the accused.

(c) Applications for the exercise of the Court's revisional jurisdiction under section 401 of the Code of Criminal Procedure, and reports of cases of which record is called for on examination of criminal returns or otherwise.

(d) Applications for leave to appeal under section 378(4) of the Code of Criminal Procedure against acquittals wherein the offense with which the accused was charged is one punishable on conviction with a sentence of fine only or with a sentence of imprisonment not exceeding ten years or with such imprisonment and fine.

(e) Application for bail or stay, not arising in or out of or relating to any appeal or application already pending in the High Court.

(f) Application for leave to appeal to the Supreme Court under Article 134 of the Constitution of India in matters disposed of by a single Judge.

(g) All miscellaneous applications, including applications for bail or stay in or out of or relating to matters under items (a) to (c) above.

(h) All applications under section 482 of the Code of Criminal Procedure including applications challenging an Order for issuing process in a private complaint, except—

(i) applications seeking review, modification or setting aside of any order passed by a Division Bench.

(ii) applications for quashing an F.I.R., C.R. , Charge Sheet or order directing investigation under Section 156(3) of the Cr.P.C. irrespective of whether such applications have been filed under Section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution.

(i) Applications/petitions for furlough or parole under Goa Prison Rules, 2006 or for temporary bail in the matter pending before Division Bench or a Single Judge shall be placed, before the respective fora. Applications/Petitions of aforesaid nature arising out of matters already disposed of shall be placed before the Single Judge assigned with Criminal matters.

3. All appeals from orders passed under any special statute other than Code of Criminal Procedure, which provides for an appeal to the High Court from an order of penalty or for confiscation or an order in the nature thereof passed under that statute shall be heard by a Division Bench hearing first appeals.

4. All the appeals from Orders or Judgments of the Family Court to the High Court, dealt with under the Family Courts Act, 1984 including the Orders in proceedings under Chapter IX of the Code of Criminal Procedure shall be heard by the Division Bench hearing First Appeals.

5. *Matters to be dealt with by a Single Judge during vacations and holidays.*— Notwithstanding anything contained in these Rules, a single Judge, may, during Vacation or on Holidays or on Working days when the Division Court is not in Session issue notice as the case may be, in any matter of an emergent nature, civil or criminal or under the Constitution, and may pass such interim orders regarding stay, injunction, bail and other interim reliefs as he may deem fit.

6. *Applications for transfer of proceedings in lower Courts.*— All applications for transfer of suits, appeals, criminal cases or other proceedings pending for trial or disposal in any Civil Court or Criminal Court subordinate to the High Court or over which the High Court has the power of superintendence, to another Court subordinate to or under the superintendence of the High Court, or to the High Court may be disposed of by a single Judge.

7. The point of difference of opinion between Judges of a Division Bench shall be decided in the manner provided for in section 98 of the Code of Civil Procedure or section 392 of the Code of Criminal Procedure as the case may be. After the third Judge to whom the reference is made has given his opinion, the matter shall be placed before the Division Bench which had originally heard the matter and it shall pronounce the final judgment or order disposing of the matter :

Provided that where one of the Judges constituting such Division Bench has ceased to be a Judge of the High Court or has for the time being ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case be (the Division Bench whereof originally heard the matters), the matter shall be placed before the Division Bench of which the other Judge is a member :

Provided further that where both the Judge have ceased to be the Judge of the High Court or have ceased to sit at Bombay, Nagpur, Aurangabad or Goa, as the case may be, the Division Bench whereof originally heard the matter shall be placed before a Division Bench dealing with the class of cases to which the referred matter belongs.

And the Division Bench mentioned in the provisos shall pronounce the final Judgment or order disposing of the matter.

8. *Reference to two or more Judges.*— If it shall appear to any Judge, either on the application of a party or otherwise, that an appeal or matter can be more advantageously heard by a Bench of two or more Judges, he may report to that effect to the Chief Justice who shall make such order thereon as he shall think fit.

PART B

CHAPTER XVII

PETITIONS UNDER ARTICLES 226 AND 227 AND APPLICATIONS

UNDER ARTICLE 228 OF THE CONSTITUTION AND RULES FOR

THE ISSUE OF WRITS AND ORDERS UNDER THE SAID ARTICLES

1. (i) *Applications for issue of writs, directions, etc. under Article 226 of the Constitution.*— Every application for the issue of a direction, order or writ under Article 226 of the Constitution shall be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought. It shall be solemnly affirmed or supported by an affidavit. In every such application, the applicant shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application has been disposed of.

(ii) *Applicant to inform Court, if, during pendency of an application, the Supreme Court has been approached.*— If the applicant makes an application to 'the Supreme Court in respect of the same matter during the pendency of the application in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.

(iii) *Hearing may be adjourned pending decision by Supreme Court.*— The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

4. *Division Bench to dispose of the application; rule nisi may be granted by a Single Judge.*— Applications under Rule I shall be heard and disposed of by a Division Bench; but a single Judge may grant rule nisi, provided that he shall not pass any final order on the application.

17. (i) *Applications under Article 227 and 228.*— An application invoking the jurisdiction of the High Court under Article 227 of the Constitution or under Article 228 of the Constitution,

shall be filed on the Appellate Side of the High Court and be heard and disposed of by a Division Bench to be appointed by the Chief Justice. The application shall set out therein the relief sought and the grounds on which it is sought. It shall be solemnly affirmed or supported by an affidavit. In every such application, the applicant shall state whether he has made any other application to the Supreme Court or the High Court in respect of the same matter and how that application is disposed of.

(ii) *Applicant to inform Court, if, during pendency of an application, the Supreme Court is approached.*— If the applicant makes an application to the Supreme Court in respect of the same matter during the pendency of the application in the High Court, he shall forthwith bring this fact to the notice of the High Court by filing an affidavit in the case and shall furnish a copy of such affidavit to the other side.

(iii) *Hearing may be adjourned pending decision by the Supreme Court.*— The Court may adjourn the hearing of the application made to it pending the decision of the Supreme Court in the matter.

(iv) *Rules 2 to 16 to apply mutatis mutandis.*— Provisions of Rules 2 to 16 above shall apply *mutatis mutandis* to all such applications.

18. *Single Judge's powers to finally dispose of applications under Article 226 or 227.*— Notwithstanding anything contained in Rules 1,4 and 17 of this Chapter, applications under Article 226 or under Article 227 of the Constitution (or applications styled as applications under Article 227 of the Constitution read with Article 226 of the Constitution) arising out of—

- (1) The orders passed under the Goa Administrative Tribunal Act, 1965 ;
- (2) The orders passed by any Authority or Tribunal under the Goa, Daman and Diu Agricultural Tenancy Act 1964 ;
- (3) The decrees or the orders passed by any Subordinate Court or by any quasi Judicial Authority in any suit or proceeding (including suits and proceedings under any Special or Local Laws), but excluding those arising out of the Parsi Chief Matrimonial Court and orders passed under the Recovery of Debts due to Banks and Financial Institutions Act, 1993; the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Goa Commission for Schedule Caste and Schedule Tribes Act, 2010) ;
- (4) The orders and decisions of the Courts constituted under the Code of Criminal Procedure, except the applications for quashing an F.I.R., C.R.Charge Sheet or an order directing investigation under section 156(3) of the Cr.P.C. irrespective of whether such applications have been filed under section 482 simpliciter or read with Article 226 and/or Article 227 of the Constitution ;
- (5) The decrees or the orders passed by any Subordinate Court in appellate or revisional proceedings arising from suits or proceedings mentioned in clause (3) above, or
- (6) The orders passed by any authority under the Goa Buildings (Lease, Rent and Eviction) Control Act, 1986 ;
- (7) The orders passed under the Goa, Daman and Diu Housing Board Act, 1968 ;
- (8) The orders passed under the Industrial Disputes Act, 1947 ;
- (9) The orders made under the Goa Industrial Development Act, 1965 ;
- (10) The orders passed by the Appellate Authority under the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 ;
- (11) The orders passed under the Payment of Gratuity Act, 1972 ;
- (12) The orders passed under the Workmen's Compensation Act, 1923 ;
- (13) The orders passed under the Payment of Wages Act, 1936 ;
- (14) The orders passed under the Minimum Wages Act, 1948 ;
- (15) The orders passed under the Goa, Daman and Diu Land Revenue Code, 1968 ;

- (16) The orders passed under the Indian Stamp Act, 1899 ;
- (17) The orders passed under the Indian Police Act, 1861 ;
- (18) The orders passed under the Goa Shops and Establishments Act, 1983 ;
- (19) The orders passed under the Indian Ports Act, 1908 ;
- (20) The orders passed under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 ;
- (21) The orders passed under the Displaced Persons (Compensation and Rehabilitation) Act, 1954 ;
- (22) The orders passed under the Electricity (Supply) Act, 1948 ;
- (23) The orders passed under the Employees' Provident Funds and Misc. Provisions Act, 1952 ;
- (24) The orders passed under the Employees' State Insurance Act, 1948 ;
- (25) The orders passed under the Factories Act, 1948 ;
- (26) The orders passed under the Indian Railways Act, 1890 ;
- (27) The orders passed under section 3 of the Electricity Act, 2003 ;
- (28) The orders passed under the Motor Vehicles Act, 1939 ;
- (29) The orders passed under the Goa Co-operative Societies Act, 2001.
- (30) The orders passed under the Major Port Trust Act, 1963 ;
- (31) The orders passed under the Merchant Shipping Act, 1958 ;
- (32) The orders passed under the Wireless Telegraphy Act, 1933 ;
- (33) The orders passed under the Registration Act, 1908 ;
- (34) The orders passed under the Goa Universities Act, 1984 ;
- (35) The orders passed under the Goa School Education Act, 1984 ;
- (36) Orders passed under the Land Acquisition Act, 1894 for acquiring for re-settlement of the Project affected Persons ;
- (37) Orders passed under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 ;
- (38) Orders passed under the Goa Public Premises Act ;
- (39) Orders passed under the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 ;
- (40) Orders passed under the Goa Value Added Tax Act, 2005 ;
- (41) Orders passed under the Goa Administration of Evacuee Property Act, 1964 ;
- (42) Orders passed under the Goa Municipalities Act, 1968 ;
- (43) Orders passed under the City Corporation of Panaji Act.
- (44) Orders passed under Goa, Daman and Diu Municipalities Act, 1968 ;
- (45) Orders passed under the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 ;
- (46) Orders passed under the Code of Comunidades, 1961 including orders passed in Electoral Appeals.
- (47) Orders passed under the Goa Barge Tax Act, 1973 ;
- (48) Orders passed under the Devasthan Regulations, 1933 including Orders passed in Electoral Appeals ;
- (49) Orders passed under the Goa Irrigation Act, 1973 ;
- (50) Orders passed under the Goa (Brackish Water) Fish Farming Regulation Act, 1991 ;
- (51) Orders passed under the Goa Panchayat Raj Act, 1994 ;
- (52) Orders passed under the Air (Prevention and Control of Pollution) Act, 1981 ;

- (53) Orders passed under the Water (Prevention and Control of Pollution) Act, 1974 ;
- (54) Orders passed under the Goa Tax on Entry of Goods Act, 2000 ;
- (55) Orders passed under the Goa Right to Information Act, 1997 ;
- (56) Orders passed under the Goa, Daman and Diu Public Gambling Act, 1976 ;

may be heard and finally disposed of by a Single Judge appointed in this behalf by the Chief Justice :

Provided when the matter in dispute is or relates to the challenge to the validity of any statute or any rules or regulations made thereunder, such application shall be heard and disposed of by a Division Bench to be appointed by the Chief Justice :

Provided further that the Chief Justice may assign any petition or any category of petitions falling under clauses 1 to 56 or any clause that may be added hereinafter to, a Division Bench :

Provided also that all petitions/applications under Article 226 and/or 227 of the Constitution of India arising out of or relating to an order of penalty or confiscation or an order in the nature thereof or an order otherwise of a penal character and passed under any special statute shall be heard and decided by a Division Bench hearing Writ Petitions.

Explanation.— The expression “order” appearing in clauses (1) to (56) means any order passed by any judicial or quasi judicial authority empowered to adjudicate under the above mentioned statutes.

High Court of Bombay at Goa (Panaji),
dated 29th April 2014.

DR. MRS. SHALINI PHANSALKAR JOSHI,
Registrar General.